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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

13 **PATRICK ALLAN JOHNSON**

14 Applicant.

Case No. **2012-607**

STATEMENT OF ISSUES

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16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely
19 in her official capacity as the Interim Executive Officer of the Board of Registered Nursing,
20 Department of Consumer Affairs.

21 2. On or about May 9, 2011, the Board of Registered Nursing, Department of Consumer
22 Affairs received an application for a Registered Nurse License from Patrick Allan Johnson
23 ("Applicant") On or about April 29, 2011, Patrick Allan Johnson certified under penalty of
24 perjury to the truthfulness of all statements, answers, and representations in the application. The
25 Board denied the application on December 29, 2011.

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JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws.

All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

...

5. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or

administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

6. Section 480 of the Code states:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

"(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

"(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

~~“(B) The board may deny a license pursuant to this subdivision only if the crime or act is~~
substantially related to the qualifications, functions, or duties of the business or profession for
which application is made.

FIRST CAUSE FOR DENIAL OF APPLICATION

(Criminal Convictions)

7. Applicant's registered nurse license application is subject to denial under Code sections 2761(a) and (f), section 2762 (c) and Code sections 480 (a)(1) and (a)(3)(A) based on the following criminal convictions:

1 a. On or about January 3, 2007, in a criminal proceeding entitled *In The District*
2 *Court of Tuscaloosa, State of Alabama v. Patrick Alan (sic) Johnson*, Case No, DC 2006 04768,
3 Applicant was convicted by his plea of guilty to a violation of Criminal Code section 13A-012-
4 260 (c) [possession of marijuana paraphernalia], a misdemeanor. The circumstances for this plea
5 are that on December 3, 2006, Applicant was arrested for possession of two pipes and other
6 paraphernalia associated with the smoking of marijuana. Applicant was ordered to pay court fines
7 and participate in a drug treatment program which he successfully completed.

8 b. On or about January 3, 2007, in a criminal proceeding entitled *In The District*
9 *Court of Tuscaloosa, State of Alabama v. Patrick Alan (sic) Johnson*, Case No, DC 2006 04767,
10 Applicant was convicted by his plea of guilty to a violation of Criminal Code section 13A-012-
11 214 [possession of marijuana], a misdemeanor. The circumstances of this plea are that on
12 December 3, 2006, Applicant was arrested for possession of marijuana. Applicant was ordered to
13 pay court fines and participate in a drug treatment program which he successfully completed.

14 c. On or about November 3, 2010, in a criminal proceeding entitled *People of the*
15 *State of California v. Patrick Allan Johnson*, Humboldt County Superior Court, Case No. CR
16 1003962, Applicant pled guilty to a violation of Vehicle Code section 23103 [reckless driving], a
17 misdemeanor. The circumstances of this plea are that on December 13, 2009, Applicant was
18 observed by a police officer with the Arcata Police Department to have made an abrupt lane
19 change without signaling, causing another vehicle to stop abruptly to avoid a collision. Upon
20 contact with the police, Applicant was found to display signs and symptoms consistent with
21 having consumed alcohol. He was ordered to pay court fines and placed on two (2) years
22 probation.

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